

## Article 12.

### Roads and Bridges.

#### **§ 153A-238. Public road defined for counties.**

(a) In this Article "public road" or "road" means any road, street, highway, thoroughfare, or other way of passage that has been irrevocably dedicated to the public or in which the public has acquired rights by prescription, without regard to whether it is open for travel, except that in G.S. 153A-239.1, the word "road" means both private roads and public roads.

(b) Repealed by Session Laws 1993, c. 62, s. 1. (1979, 2nd Sess., c. 1319, s. 1; 1981, c. 568; 1983, cc. 98, 299; 1987 (Reg. Sess., 1988), cc. 900, 906; 1989, c. 335, s. 1; 1989 (Reg. Sess., 1990), cc. 836, 854, 911; 1991, c. 9, s. 1; 1991 (Reg. Sess., 1992), c. 778, s. 1, c. 849, ss. 1, 2.1, c. 936, s. 1; 1993, c. 62, s. 1.)

#### **§ 153A-239: Repealed by Session Laws 1993, c. 62, s. 2.**

#### **§ 153A-239.1. Naming roads and assigning street numbers in unincorporated areas for counties.**

(a) A county may by ordinance name or rename any road within the county and not within a city, and may pursuant to a procedure established by ordinance assign or reassign street numbers for use on such a road. In naming or renaming a road, a county may not:

- (1) Change the name, if any, given to the road by the Board of Transportation, unless the Board of Transportation agrees;
- (2) Change the number assigned to the road by the Board of Transportation, but may give the road a name in addition to its number; or
- (3) Give the road a name that is deceptively similar to the name of any other public road in the vicinity.

A county shall not name or rename a road or adopt an ordinance to establish a procedure to assign or reassign street numbers on a road until it has held a public hearing on the matter. At least 10 days before the day of the hearing to name or rename a road, the board of commissioners shall cause notice of the time, place and subject matter of the hearing to be prominently posted at the county courthouse, in at least two public places in the township or townships where the road is located, and shall publish a notice of such hearing in a newspaper of general circulation published in the county. At least 10 days before the day of the hearing to adopt an ordinance to establish a procedure to assign or reassign street numbers on a road, the board of commissioners shall publish a notice of such hearing in a newspaper of general circulation in the county. After naming or renaming a road, or assigning or reassigning street numbers on a road, a county shall cause notice of its action to be given to the local postmaster with jurisdiction over the road, to the Board of Transportation, and to any city within five miles of the road. Names may be initially assigned to new roads by recordation of an approved subdivision plat without following the procedure established by this section.

(b) Repealed by Session Laws 1993, c. 62, s. 3. (1979, 2nd Sess., c. 1319, s. 2; 1981, c. 568; 1983, cc. 98, 299; 1987 (Reg. Sess., 1988), cc. 900, 906; 1989, c. 335, s. 1; 1989 (Reg. Sess., 1990), cc. 836, 854, 911; 1991, c. 9, s. 2; 1991 (Reg. Sess., 1992), c. 778, s. 2; c. 849, ss. 2, 2.2; c. 936, s. 2; 1993, c. 62, s. 3; 2001-145, s. 1.)

**§ 153A-240: Repealed by Session Laws 1993, c. 62, s. 4.**

**§ 153A-241. Closing public roads or easements.**

A county may permanently close any public road or any easement within the county and not within a city, except public roads or easements for public roads under the control and supervision of the Department of Transportation. The board of commissioners shall first adopt a resolution declaring its intent to close the public road or easement and calling a public hearing on the question. The board shall cause a notice of the public hearing reasonably calculated to give full and fair disclosure of the proposed closing to be published once a week for three successive weeks before the hearing, a copy of the resolution to be sent by registered or certified mail to each owner as shown on the county tax records of property adjoining the public road or easement who did not join in the request to have the road or easement closed, and a notice of the closing and public hearing to be prominently posted in at least two places along the road or easement. At the hearing the board shall hear all interested persons who appear with respect to whether the closing would be detrimental to the public interest or to any individual property rights. If, after the hearing, the board of commissioners is satisfied that closing the public road or easement is not contrary to the public interest and (in the case of a road) that no individual owning property in the vicinity of the road or in the subdivision in which it is located would thereby be deprived of reasonable means of ingress and egress to his property, the board may adopt an order closing the road or easement. A certified copy of the order (or judgment of the court) shall be filed in the office of the register of deeds of the county.

Any person aggrieved by the closing of a public road or an easement may appeal the board of commissioners' order to the appropriate division of the General Court of Justice within 30 days after the day the order is adopted. The court shall hear the matter de novo and has jurisdiction to try the issues arising and to order the road or easement closed upon proper findings of fact by the trier of fact.

No cause of action founded upon the invalidity of a proceeding taken in closing a public road or an easement may be asserted except in an action or proceeding begun within 30 days after the day the order is adopted.

Upon the closing of a public road or an easement pursuant to this section, all right, title, and interest in the right-of-way is vested in those persons owning lots or parcels of land adjacent to the road or easement, and the title of each adjoining landowner, for the width of his abutting land, extends to the center line of the public road or easement. However, the right, title or interest vested in an adjoining landowner by this paragraph remains subject to any public utility use or facility located on, over, or under the road or easement immediately before its closing, until the landowner or any successor thereto pays to the utility involved the reasonable cost of removing and relocating the facility. (1949, c. 1208, ss. 1-3; 1957, c. 65, s. 11; 1965, cc. 665, 801; 1971, c. 595; 1973, c. 507, s. 5; c. 822, s. 1; 1977, c. 464, s. 34; 1995, c. 374, s. 1.)

**§ 153A-242. Regulation or prohibition of fishing from bridges.**

A county may by ordinance regulate or prohibit fishing from any bridge within the county and not within a city. In addition, the governing board of a city may by resolution permit a county to regulate or prohibit fishing from any bridge within the city. The city may by resolution withdraw its permission to the county ordinance. If it does so, the city shall give written notice to the county of its withdrawal of permission; 30 days after the date the county receives this notice the county

ordinance ceases to be applicable within the city. An ordinance adopted pursuant to this section shall provide for signs to be posted on each bridge affected, summarizing the regulation or prohibition pertaining to that bridge.

No person may fish from the drawspan of a regularly attended bridge, and no county may permit any person to do so.

The authority granted by this section is subject to the authority of the Department of Transportation to prohibit fishing from any bridge on the State highway system. (1971, c. 690, ss. 1, 6; 1973, c. 507, s. 5; c. 822, s. 1; 1977, c. 464, s. 34.)

#### **§ 153A-243. Authorizing bridges over navigable waters.**

A county may grant to persons who between them own or occupy real property on both sides of a body of navigable water lying wholly within the county the right to construct and maintain across the body of water a bridge connecting the property. The board of commissioners shall first adopt a resolution declaring its intent to grant the right and calling a public hearing on the question. The board shall cause the resolution to be published once a week for four successive weeks before the hearing. At the hearing the board shall hear all interested persons who appear with respect to whether the grant would be in the public interest. If, after the hearing, the board finds that the grant is not contrary to the public interest, it may adopt an order granting the right to construct the bridge. The board may place reasonable terms and conditions, including time limitations, on the grant.

A person aggrieved by a grant may appeal the board of commissioners' order to the appropriate division of the General Court of Justice within 30 days after the day it is adopted. The court shall hear the matter de novo and has jurisdiction to try the issues arising and to grant the right to construct the bridge.

Before construction may be commenced on any bridge authorized pursuant to this section, the bridge's location and plans must be submitted to and approved by the Chief of Engineers of the United States Army and the Secretary of the Army. (Pub. Loc. 1191, c. 227; C.S., s. 1297; 1973, c. 822, s. 1.)

#### **§ 153A-244. Railroad revitalization programs.**

Any county is authorized to participate in State and federal railroad revitalization programs necessary to insure continued or improved rail service to the county, as are authorized in Article 2D of Chapter 136 of the General Statutes. County participation includes the authority to enter into contracts with the North Carolina Department of Transportation to provide for the nonfederal matching funds for railroad revitalization programs. Such funds may be comprised of State funds distributed to the counties under the provisions of G.S. 136-44.38 and of county funds. County governments are also authorized to levy local property tax for railroad revitalization programs subject to G.S. 153A-149(d). County funds for any project may not exceed ten percent (10%) of total project costs. (1979, c. 658, s. 4.)

#### **§ 153A-245. Regulation of golf carts on streets, roads, and highways.**

(a) Notwithstanding the provisions of G.S. 20-50 and G.S. 20-54, a county may, by ordinance, regulate the operation of golf carts, as defined in G.S. 20-4.01(12b), on any public street, road, or highway where the speed limit is 35 miles per hour or less within the county that is located in any unincorporated areas of the county or on any property owned or leased by the county.

(b) By ordinance, a county may require the registration of golf carts, charge a fee for the registration, specify who is authorized to operate golf carts, and specify the required equipment, load limits, and the hours and methods of operation of golf carts. No person less than 16 years of age may operate a golf cart on a public street, road, or highway. (2009-459, s. 1.)

**§ 153A-246. Use of photographs or videos recorded by automated school bus safety cameras.**

(a) Definitions. – The following definitions apply in this section:

- (1) Automated school bus safety camera. – As defined in G.S. 115C-242.1.
- (2) Officials or agents. – This term includes a local board of education located within the county or a private vendor contracted with under G.S. 115C-242.1.
- (3) School bus. – As used in G.S. 20-217.

(b) Civil Enforcement. – A county may adopt an ordinance for the civil enforcement of G.S. 20-217 by means of an automated school bus safety camera installed and operated on any school bus located within that county. An ordinance adopted pursuant to this section shall not apply to any violation of G.S. 20-217 that results in injury or death. Notwithstanding the provisions of G.S. 14-4, in the event that a county adopts an ordinance pursuant to this section, a violation of the ordinance shall not be an infraction. An ordinance authorized by this subsection shall provide all of the following:

- (1) The notice of the violation shall be given in the form of a citation and shall be received by the registered owner of the vehicle no more than 60 days after the date of the violation.
- (2) The registered owner of a vehicle shall be responsible for a violation unless the vehicle was, at the time of the violation, in the care, custody, or control of another person or unless the citation was not received by the registered owner within 60 days after the date of the violation.
- (3) A person wishing to contest a citation shall, within 30 days after receiving the citation, deliver to the officials or agents of the county that issued the citation a written request for a hearing accompanied by an affidavit stating the basis for contesting the citation, including, as applicable:
  - a. The name and address of the person other than the registered owner who had the care, custody, or control of the vehicle.
  - b. A statement that the vehicle involved was stolen at the time of the violation, with a copy of any insurance report or police report supporting this statement.
  - c. A statement that the citation was not received within 60 days after the date of the violation, and a statement of the date on which the citation was received.
  - d. A copy of a criminal pleading charging the person with a violation of G.S. 20-217 arising out of the same facts as those for which the citation was issued.
- (4) The citation shall include all of the following:

- a. The date and time of the violation, the location of the violation, the amount of the civil monetary penalty imposed, and the date by which the civil monetary penalty shall be paid or contested.
  - b. An image taken from the recorded image showing the vehicle involved in the violation.
  - c. A copy of a statement or electronically generated affirmation of a law enforcement officer employed by a law enforcement agency with whom an agreement has been reached pursuant to G.S. 115C-242.1(c) stating that, based upon inspection of the recorded images, the owner's motor vehicle was operated in violation of the ordinance adopted pursuant to this subsection.
  - d. Instructions explaining the manner in which, and the time within which, liability under the citation may be contested pursuant to subdivision (3) of this subsection.
  - e. A warning that failure to pay the civil monetary penalty or to contest liability in a timely manner shall waive any right to contest liability and shall result in a late penalty of one hundred dollars (\$100.00), in addition to the civil monetary penalty.
  - f. In citations issued to the registered owner of the vehicle, a warning that failure to pay the civil monetary penalty or to contest liability in a timely manner shall result in refusal by the Division of Motor Vehicles to register the motor vehicle, in addition to imposition of the civil monetary penalty and late penalty.
- (5) Violations of the ordinance shall be deemed a noncriminal violation for which a civil penalty shall be assessed and for which no points authorized by G.S. 20-16(c) and no insurance points authorized by G.S. 58-36-65 shall be assigned to the registered owner or driver of the vehicle. The amount of such penalty shall be four hundred dollars (\$400.00) for the first offense, seven hundred fifty dollars (\$750.00) for the second violation, and one thousand dollars (\$1,000) for each subsequent violation of the ordinance.
  - (6) If a registered owner provides an affidavit that the vehicle was, at the time of the violation, in the care, custody, or control of another person or company, the identified person or company may be issued a citation complying with the requirements of subdivision (4) of this subsection.
  - (7) The citation shall be processed by officials or agents of the county and shall be served by any method permitted for service of process pursuant to G.S. 1A-1, Rule 4 of the North Carolina Rules of Civil Procedure, or by first-class mail to the address of the registered owner of the vehicle provided on the motor vehicle registration or, as applicable, to the address of the person identified in an affidavit submitted by the registered owner of the vehicle.
  - (8) If the person to whom a citation is issued makes a timely request for a hearing pursuant to subdivision (3) of this subsection, a summons shall be issued by any method permitted for service of process pursuant to

G.S. 1A-1, Rule 4 of the North Carolina Rules of Civil Procedure, directing the person to appear at the place and time specified in the summons in order to contest the citation at an administrative hearing.

- (9) A citation recipient who, within 30 days after receiving the citation, fails either to pay the civil penalty or to request a hearing to contest the citation shall have waived the right to contest responsibility for the violation and shall be subject to a late penalty of one hundred dollars (\$100.00) in addition to the civil penalty assessed under this subsection.
- (10) The county shall institute a nonjudicial administrative hearing to hear contested citations or penalties issued or assessed under this section. The decision on a contested citation shall be rendered in writing within five days after the hearing and shall be served upon the person contesting the citation by any method permitted for service of process pursuant to G.S. 1A-1, Rule 4 of the North Carolina Rules of Civil Procedure. If the decision is adverse to the person contesting the citation, the decision shall contain instructions explaining the manner and the time within which the decision may be appealed pursuant to subdivision (11) of this subsection.
- (11) A person may appeal to the district court division of the General Court of Justice from any adverse decision on a contested citation by filing notice of appeal in the office of the clerk of superior court. Enforcement of an adverse decision shall be stayed pending the outcome of a timely appeal. Except as otherwise provided in this subdivision, appeal shall be in accordance with the procedure set forth in Article 19 of Chapter 7A of the General Statutes applicable to appeals from the magistrate to the district court. For purposes of calculating the time within which any action must be taken to meet procedural requirements of the appeal, the date upon which the person contesting the citation is served with the adverse decision shall be deemed to be the date of entry of judgment.
- (12) In the event a person is charged in a criminal pleading with a violation of G.S. 20-217, all of the following shall apply:
  - a. The charging law enforcement agency shall provide written notice to the county office responsible for processing civil citations pursuant to subdivision (7) of subsection (b) of this section containing the name and address of the person charged with violation of G.S. 20-217 and the date of the violation.
  - b. After receiving notice pursuant to this subdivision that a person has been charged in a criminal pleading with a violation of G.S. 20-217, the county shall not impose a civil penalty against that person arising out of the same facts as those for which the person was charged in the criminal pleading.
  - c. The county shall issue a full refund of any civil penalty payment received from a person who was charged in a criminal pleading with a violation of G.S. 20-217 if the civil penalty arose out of the same facts as those for which that person was charged in the criminal pleading,

together with interest at the legal rate as provided by G.S. 24-1 from the date the penalty was paid until the date of refund.

- (13) If a citation is not contested pursuant to subdivision (3) of this subsection, payment of the civil penalty is due within 30 days after receipt of the citation. If the citation is contested, and the result of the administrative hearing held pursuant to subdivision (10) of this subsection is a decision adverse to the citation recipient, then payment is due within 30 days after receipt of the adverse decision, unless the citation recipient appeals the adverse decision pursuant to subdivision (11) of this subsection. If the adverse decision is appealed, and if the final decision on appeal is adverse to the citation recipient, then payment of the civil penalty is due within 30 days after the citation recipient receives notice of the final adverse decision on appeal.
- (14) If the registered owner of a motor vehicle who receives a citation fails to pay the civil penalty when due, the Division of Motor Vehicles shall refuse to register the motor vehicle for the owner in accordance with G.S. 20-54(11). The county may establish procedures for providing notice to the Division of Motor Vehicles and for the collection of these penalties and may enforce the penalties by civil action in the nature of debt.
- (15) The county shall provide each law enforcement agency within its jurisdiction with the name and address of the county official to whom written notice of persons charged with violation of G.S. 20-217 should be given pursuant to subdivision (12) of this subsection.

(c) Notice. – An automated school bus safety camera installed on a school bus must be identified by appropriate warning signs conspicuously posted on the school bus. All warning signs shall be consistent with a statewide standard adopted by the State Board of Education in conjunction with local boards of education that install and operate automated school bus safety cameras on their school buses.

(d) Application. – Nothing in this section shall be construed to do any of the following:

- (1) Require the installation and operation of automated school bus safety cameras on a school bus.
- (2) Prohibit the use and admissibility of any photograph or video recorded by an automated school bus safety camera in any criminal proceeding alleging a violation of G.S. 20-217.
- (3) Prohibit the imposition of penalties, including the assignment of points authorized by G.S. 20-16(c) and insurance points authorized by G.S. 58-36-65, on any registered owner or driver of the vehicle convicted of a misdemeanor or felony violation of G.S. 20-217.

(e) Criminal Prosecution Encouraged. – The General Assembly of North Carolina encourages criminal prosecution for violation of G.S. 20-217 whenever photographs or

videos recorded by an automated school bus safety camera provide evidence sufficient to support such prosecution.

(f) A county that adopts an ordinance as provided in this section, shall maintain records of all violations of that ordinance for which a civil penalty is assessed. Upon request, the county shall provide at least five years of those records to the North Carolina Child Fatality Task Force and the North Carolina General Assembly. (2017-188, ss. 1, 5)